IN THE

Supreme Court of the United States

OCTOBER TERM, 1933.

No. 531

LEO NEBBIA,

Appellant,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

BRIEF OF THE STATE OF NEW JERSEY AS *AMICUS CURIAE.*

This matter is now before your Honorable Court on appeal of Leo Nebbia from a conviction of the Court of Appeals of the State of New York.

The offense charged in the information was a sale by Mr. Nebbia of two one-quart bottles of milk and a loaf of "Italian bread" for eighteen cents, which was conceded to be a violation of Section 213, subdivision (e) of the Agriculture and Markets Law, inasmuch as the Milk Control Board had fixed a minimum price for milk of nine cents per quart.

The State of New Jersey on May twenty-third, nineteen

hundred and thirty-three, passed a Milk Control Act, a copy of which is as follows:

Copy of Act attached hereto.

The interests of the State of New Jersey and the State of New York with respect to the Milk Control acts of the respective states are common, as the act passed by the Legislature of the State of New Jersey was copied from the act of the State of New York, and the subject matter of both acts is the same with the exception of a few minor changes. Suits are now pending in the State of New Jersey for violations of the Milk Control Act of this State, which may eventually reach the Supreme Court of the United States, and the same questions would be raised with respect to the Milk Control Act of the State of New Jersey as are now being raised in the above stated cause.

The Milk Control Act of the State of New Jersey is within the police powers of the State and these powers cannot be infringed upon by the Government.

"The Police Power is one which belongs to State Sovereignty, reserved and protected by the United States Constitution." *Citing Cooley on Constitution, Lim. 7th p.* 831.

"Police Powers are inherent in States." *Sutherland v. Miller,* 91 *S. E.* 993.

"Police Power has been defined as the power inherent in the State to prescribe within limits of the State and Federal Constitutions, reasonable regulations necessary to preserve the public order, health, safety and morals." *Tighe v. Osborne,* 131 *Atl.* 801.

The regulations as prescribed by the State of New Jersey and the State of New York, requiring the licensing of persons engaged in the business of buying or selling milk, and

to be subject to the rules and regulations of the Milk Control Boards of the respective states with regard to sanitary conditions, the price of milk, the grades of milk, the fixing of minimum prices to consumer and minimum prices to producer, are within the regulation of police powers of the state.

> "Regulation of Milk Dealers requiring the licensing of persons engaged in the business of buying milk and cream is not invalid as Class Legislation." *People v. Beakes*, 119 *N. E.* 115.

> "The reasonable regulation of business and trade is within the police power of the State, and the regulation to both the exercise and mode of exercise of business and trade, so the regulations of business, safety, health, comfort and welfare are police powers of the State." *Song Hing v. Crowley*, 113 *U. S.* 708; *Gundling v. Chicago*, 177 *U. S.* 188; *St. Louis v. Illinois*, 185 *U. S.* 207; *Holden v. Hardy*, 169 *U. S.* 395.

The Milk Control Act of the State of New Jersey was created as an emergency measure and emergency measures have been held constitutional. Where an emergency arose after the war, resulting in burdensome rental conditions, emergency rent laws, temporary in their nature, were upheld. *Block v. Hirsch*, 256 *U. S.* 135.

The Milk business is subject to some measure of public regulation and the production of milk is, on account of its great importance as human food, a chief industry of the State of New Jersey, and is of such paramount importance as to justify the assertion that the general welfare and prosperity of the State in a very large and real sense depend upon it. This milk is sold by farmers to milk dealers, and then by milk dealers to consumers, and the State of New Jersey seeks to protect the farmer by fixing a minimum price for his milk, by keeping open the stream of milk flowing from the farm to the city; by guarding the farmer from

a loss in the production of his milk, and at the same time the State places a minimum price upon the sale of milk from the milk dealer to the consumer which assures the public of a high quality product at a reasonable price.

Economic Gain to Dairy Farmers in New Jersey

Comparing the farm price of milk during the four months immediately preceding the operations of the Milk Control Board with the four months when the farm price of milk was regulated by the Board we find that New Jersey dairy farmers were benefited greatly by the regulations of the Milk Control Board. In the following table comparison is given between the prices received by New Jersey dairy farmers before and after the Milk Control Board began to function:

Average Price Received by New Jersey Farmers for 100 Pounds of Milk
1933

February, $1.32; March, $1.26; April, $1.31; May, $1.31; June, $2.02; July, $2.13; August, $2.11, and September, $2.53.

The New Jersey Milk Control Board began to operate in June. In May, when prices were not regulated, New Jersey dairy farmers received an average price of $1.31 per hundred pounds. In June, when the Board started to operate, the average price was equal to $2.02, or 54% above the price in May.

The average price received by New Jersey dairy farmers during the four months from February to May inclusive was $1.30 per hundred pounds. The average farm price during the next four months, i. e. when the Milk Control Board regulated the price was $2.27, or 75% higher than during the four preceding months.

The average July 1930-1932 price of milk was $1.92 per hundred pounds. It includes the year 1930 when the price received by farmers was reasonable, i. e. $2.42 for one hundred pounds. The average farm price of milk during July, 1933, was $2.13, or 21 cents above the July 1930-1932 price. From this brief statistical summary the financial advantages to New Jersey farmers are apparent.

A present determination of the question of the constitutionality of the Milk Control Act of the State of New Jersey is of great importance to the State of New Jersey as bearing on the State of New Jersey's future policy and practice under this act.

We respectfully submit that the Milk Control Act is constitutional and that the judgment in the above stated cause should be affirmed.

Respectfully submitted,

WILLIAM A. STEVENS,
Attorney-General,

ROBERT PEACOCK,
Assistant Attorney-General,
Counsel for State of New Jersey.

November 22, 1933.

STATE OF NEW JERSEY

Milk Control Board

CHAPTER 169, LAWS OF 1933

An Act to Regulate and Control the Purchase, Distribution and Sale of Fluid Milk and Cream and to Create a State Board of Milk Control

Trenton, N. J. May, 1933

STATE OF NEW JERSEY

CHAPTER 169, LAWS OF 1933

AN ACT to regulate and control the purchase, distribution and sale of fluid milk and cream and to declare an emergency, and for this purpose to create a State board of milk control, defining its powers and duties and providing penalties for violations.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

DECLARATION OF LEGISLATIVE POLICY AND INTENT

WHEREAS, During the past six months groups of producers of milk in many sections of the United States have joined together and have adopted various means or methods to control the production, sale and distribution of fluid milk, which, in their opinion, would force a better return to the milk producers, and some of the means adopted consisted of milk strikes, refusal to permit milk to be delivered to distributors and consumers, destruction and dumping of milk, and picketing, to prevent the delivery of milk to distributors and consumers; and

WHEREAS, In many communities these methods have been pursued to the extent that the public were denied a sufficient supply of good wholesome milk; and

WHEREAS, In certain sections of this nation ner, markets are not available for the local proped with the result that fluid milk is being New into the State of New Jersey and into price York and Philadelphia milk sheds at the resi- that the producers who supply milk

dents of this State are now unable to receive such a return for their milk that will reimburse them for the actual cost of production of good clean milk; and

WHEREAS, Efforts are now being made to organize the producers in the Philadelphia and New York milk sheds, including the State of New Jersey, so as to restrict or limit the milk supply by picketing or other means, in order to force a higher price for fluid milk. In the event of such results being accomplished, the health of the citizens of this State may be seriously affected. The State of New York recognizing the seriousness of the situation has already enacted into law a measure which they believe will protect the citizens of that commonwealth; and

WHEREAS, By reason of the action of the State of New York it becomes imperative that similar precautionary measures be put into effect in this State; therefore,

1. It is declared that the Legislature of the State of New Jersey, in the exercise of the police power reserved to the States in order to protect the public health and welfare of the inhabitants of this State, does hereby declare this act to be an emergency law, necessary for the immediate preservation of the public peace, health and safety.

The reason for such necessity is that evils consisting as hereinbefore recited, of unfair, unjust, destructive and demoralizing practices are now being carried on in the production, sale and distribution of milk for human food, which are likely to result in the undermining of health regulations and standards, the demoralization of the agricultural interests of this State engaged in the production of milk, and the creation of conditions inimical to the health of milk consumers. Such conditions have progressed to the point that there is immediate danger not only to the public health, but also to the public peace and safety, and it is the intent of this act to correct those unfair, unjust, destructive and demoralizing practices.

Article I

Definitions

1. Words used in this act, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, shall have the following meaning:

"Board"—The milk control board.

"Person"—Any individual, person, firm, association or corporation.

"Milk Dealer"—Any person who purchases for sale, produces for sale direct to consumer, purchases for distribution, distributing broker, any person who purchases, distributes or handles within or without the State, for storage, manufacture or sale in this State, except for consumption on the premises of the producer, milk and cream. Any co-operative association organized under any law of this or any other State is declared to be a milk dealer or producer within the meaning of this act as the board may determine.

"Market"—Any municipality, incorporated or unincorporated, of this State, other than a county, including any natural marketing area designated by the board.

"Licensee"—A licensed milk dealer.

"Milk"—The natural product of a dairy animal or animals, and includes such product when cooled, pasteurized, condensed or concentrated except when contained in hermetically sealed cans, with a view to being sold as milk and also cream, buttermilk and skimmed milk, sold or intended to be sold as such for human food; said term excludes the natural product of a dairy animal or animals sold or intended to be sold for any other purpose.

"Producer"—Any person producing milk and/or cream delivered or to be delivered to any dealer or to any market in this State.

"Consumer"—Any person, other than a milk dealer, who purchases milk for fluid consumption.

"Sanitary regulations"—All laws enacted by the State of New Jersey; ordinances and regulations enacted or adopted by municipalities, municipal boards of health, or municipal departments, or

officials exercising the powers and duties of local boards of health, relating to the production, handling, transportation, distribution and sale of milk within this State.

Article II

MILK CONTROL BOARD

1. (a) The Secretary of the Board of Agriculture, and a member of the State Board of Health to be designated by said board and a person to be appointed by the Governor are hereby constituted a milk control board for the purpose of effectuating the provisions of this act. The terms of office of the members of the board thereof shall be coincident with the terms for which they are severally appointed to the Department of Agriculture and to the board of health and the member appointed by the Governor shall serve during the pleasure of the Governor. Technical and other services for such milk control board shall be performed, so far as practicable, by forces or officers in the Department of Agriculture and when required by forces or officers in the State Department of Health, without additional compensation, but the milk control board may appoint and at pleasure remove the secretary of the milk control board, and any such additional technical, legal and other assistants and employees as may be necessary to carry out the provisions of this act and to prescribe their powers and duties.

(b) The members of the milk control board shall serve without pay, but shall, upon certification by the majority of the members of said board, be reimbursed for their actual and necessary expenses as required in the performance of their duties as prescribed by this act.

(c) The board shall fix the compensation of such appointees which, in case of the secretary, shall not exceed the sum of three thousand dollars ($3,000.00) per annum.

(d) All positions under this act being temporary, shall be exempt from civil service examina-

tion and exempt from the provisions of the civil service law and rules.

(e) The secretary shall, subject to the limitations herein contained, and the rules and regulations of the board, enforce the provisions of this act, but no official act shall be taken, rule or regulation promulgated, or official order made or enforced with respect to the provisions of this act, without the approval of the majority of the members of the board.

(f) The principal office of the board shall be in the city of Trenton in rooms assigned, furnished and equipped by the custodian of the State House.

(g) Two members of the board shall constitute a quorum.

Article III

General powers

1. The milk control board is hereby declared to be the instrumentality of the State for the purpose of attaining the ends in this act declared, and is hereby vested with power:

(a) To supervise and regulate the entire milk industry of the State of New Jersey, including the production, importation, transportation, manufacture, storage, distribution, delivery and sale of milk and milk products in the State of New Jersey, in those matters as in the declaration of legislative policy and intent stated in this act to be necessary to control or prevent unfair, unjust, destructive and demoralizing practices which are likely to result in the undermining of health regulations and standards, the demoralization of agricultural interests in this State engaged in the production of milk; *provided, however,* that nothing contained in this act or rules or regulations adopted thereunder shall be construed to abrogate or affect the status, force or operation of any public health law, any sanitary regulation or any local health ordinance, code or regulation, or an act entitled "An act to secure the purity of foods, beverages, confectionery, condiments, drugs and medicines, and to prevent deception in the distribution and sales there-

of" (Revision of 1907), approved May twentieth, one thousand nine hundred and seven, and amendments thereof and supplements thereto.

(b) To investigate all matters pertaining to the production, importation, manufacture, storage, transportation, disposal, distribution and sale of milk and milk products in the State of New Jersey. The board shall have the power to issue subpœnas to compel the attendance of witnesses and the production of books, papers and records for the purpose of obtaining such information as may be required to carry out the provisions of this act. Such subpœnas shall be signed by the secretary or by any member of the board.

(c) The process of subpœna authorized in the last preceding section shall be served in the same manner and be of the same force and effect as like process in civil actions in the Supreme Court; and any person attending in pursuance of such subpœna shall be entitled to the same fees and mileage as witnesses in civil actions in said Supreme Court.

(d) In case any person so summoned by subpœna issued by said secretary or member of the board, as aforesaid, shall refuse to obey such subpœna or any directions therein, or to give testimony, or to answer questions as required, or to produce any books, papers, documents or records as required, or in case any such person shall refuse to obey any order made by any Supreme Court justice, it shall be lawful for such board, or any member thereof, including the secretary, upon affidavits proving the facts, to apply to said Justice of the Supreme Court for attachment against such person, as for a contempt, and it shall be the duty of such justice to hear such application, and if satisfactory proof be made of such refusal, to issue an attachment, directed to the sheriff or any constable of the county, for the arrest of such person, and, upon his being brought before him, to proceed to a hearing of the case; and the said justice shall have power to enforce, by imprisonment in any county jail, obedience to such subpœna, and the answer of any question that may be proper, and the production of any book, paper or document that

the witness would be compelled to produce in a court of law, by similar process, and also to compel such witness to pay the costs of said proceedings, to be taxed by the court; and any person who shall willfully and corruptly testify falsely to any material matter upon oath or affirmation administered by any member of such board or its secretary, upon such investigation or inquiry, shall be guilty of perjury.

(e) Any member of such board, or the secretary, is hereby authorized to administer oaths to all such witnesses as may appear or be brought before said board.

(f) The board may act as mediator and arbitrator in any controversy or issue that may arise among or between milk producers and milk dealers as between themselves or that may arise between them as groups.

(g) The operation and effect of any provision of this act conferring a general power upon the board shall not be impaired or qualified by the granting to the board by this act of a specific power or powers, not inconsistent with the proviso contained in paragraph (a) of this article.

ARTICLE IV

RULES AND ORDERS

1. (a) The board may adopt and enforce all rules and orders necessary to carry out the provisions of this act. Every rule or order of the board shall be posted for public inspection in the main office of the board and a certified copy filed in the office of the Secretary of State. An order applying only to a person or persons named therein shall be served on the person or persons affected. Such order so required to be served shall be served by personal delivery of a certified copy or by mailing a copy thereof by mail to each person affected thereby to the last known address, which letter may or may not be registered as determined by the board, and in the case of a corporation, to any officer or agent of the corporation upon whom a sum-

mons may be served pursuant to the provisions of an act entitled "An act concerning corporations" (Revision of 1896), and the acts amendatory thereof and supplemental thereto.

(b) The board is authorized to conduct hearings in any part of the State or may designate any member of the board so to do, which hearings shall be held pursuant to rules and regulations adopted and promulgated by the board.

(c) Any member of the board or employee designated for such purpose shall have access to and may enter at all reasonable hours all places where milk is being stored, bottled or manufactured into food products. Any member of the board or designated employee shall have power to inspect all books, papers, records or documents in any place within this State for the purpose of ascertaining facts to enable the board to administer the provisions of this act.

(d) The provisions of this article as to service of orders shall not apply to orders fixing prices of milk or cream under the provisions of this act.

Article V

LICENSES

1. (a) No milk dealer, as defined in this act, shall buy milk from producers or others for sale, transportation, importation, storage or manufacture, or sell, transport, import, manufacture, store or distribute milk within this State, unless such dealer be duly licensed as in this act provided, and it shall be unlawful for a milk dealer to buy milk from a dealer who is unlicensed, or to sell milk to a dealer in this State who is unlicensed, or, in any way to deal in or handle milk which he may have reason to believe has previously been dealt in or handled in violation of the provisions of this act.

The licenses required by this act are for the purpose of correcting unfair, unjust, destructive and demoralizing practices in the milk and milk products industry in this State which are likely to result in the undermining of health regulations and stand-

ards, and to prevent the demoralization of agricultural interests engaged in the production of milk in this State. The licenses required by this act shall be in addition to any other license or permit required by any law of this State, or by any ordinance of a local board of health or other body exercising the powers thereof in any municipality of this State, and shall not be considered as such a license or certificate as is contemplated by section one of Article XV of "An act concerning municipalities," approved March twenty-seventh, one thousand nine hundred and seventeen, and the acts amendatory thereof or supplemental thereto.

(b) No dealer shall distribute or sell milk in this State which is obtained from any producer or other dealer where the source is not approved by the board or where the milk has been purchased for a price less than the price fixed by the board to be paid for milk to be distributed in a given market.

(c) An application for a license to operate as a milk dealer shall be made within at least thirty days after this act takes effect and or before any person shall commence business as a milk dealer, and annually thereafter on or before the fifteenth day of June in each year, for the license year commencing July first and ending June thirtieth following. The applicant shall state the nature of the business to be conducted, the full name of the person applying for the license and if the applicant be a firm or association, the full name of each member, and if a corporation the names and addresses of all officers and directors and the name of the municipality in which the business is to be conducted; facts showing that the applicant has adequate technical personnel, adequate technical and physical facilities to conduct the business of handling milk; that he has complied with all the rules and orders of the board and such other facts with respect to the license as may be required by the said board. A license shall be granted to the applicant by the board subject to the provisions of this article, and the original or a certified copy thereof shall be conspicuously displayed by the licensee in each place of business in this State.

(d) The board, after hearing, may decline to grant a license or may suspend or revoke a license already granted when satisfied of the existence of any of the following:

(1) That a licensee has rejected, without reasonable cause, any milk purchased from a producer.

(2) That the licensee has failed to account and make payment, without reasonable cause, for any milk purchased from a producer.

(3) That the licensee has committed any act likely to undermine health regulations and standards, or has committed any act injurious to the public welfare, or to trade or commerce, or any act which may demoralize the price structure of milk or interfere with an ample supply of milk for the inhabitants of this State.

(4) Where the licensee has continued in a course of dealing of such a nature as to satisfy the board of his inability or unwillingness properly to conduct the business of receiving or selling milk.

(5) Where the licensee has been a party to a combination to fix prices contrary to the provisions of this act.

(6) Where the licensee has continued in a course of dealing of such nature as to satisfy the board of an intent to deceive or defraud customers, producers or consumers.

(7) Where there has been a failure either to keep records or to furnish the statements or information required by the board.

(e) Before declining to grant a license or conditioning or limiting a license, or suspending or revoking a license previously granted, the board shall give notice to the applicant or licensee personally, or by mail addressed to his last known address, and afford to him an opportunity to appear and be heard with respect thereto at a time and place specified in such notice. Such applicant or licensee shall have the right to be so heard in person or by attorney, and to offer evidence pertinent to the subject of the hearing, and to that end to invoke the powers of the board with respect to the compulsory attendance of witnesses and the production of books, accounts, papers, records and

documents. A duly certified copy of the order of the board upon such hearing shall be served upon the applicant or the licensee in the manner provided by Article IV of this act.

(f) Any applicant or licensee deeming himself aggrieved by any action of the board taken pursuant to this act may, within thirty days after receipt of a copy of the order of the board, apply to a Justice of the Supreme Court for a writ of certiorari, which court shall have jurisdiction to suspend, reverse, vacate or modify the orders so made by the board, and the court may, in its discretion, require the prosecutor of said writ of certiorari to execute a bond payable to the State of New Jersey, in such a sum as the court may prescribe, with sureties satisfactory to said court, conditioned for the prompt payment by the said prosecutor of all damages arising from or caused by the delay in the effectiveness or enforcement of the order complained of or in the prompt prosecution of his writ.

Article VI

Records

1. The board may require licensees to keep the following records:

(a) A record of all milk received, detailed as to location, and as to names and addresses of suppliers, with butter fat test, prices paid, deductions or charges made.

(b) A record of all milk sold classified as to grade, location and market outlet and size and style of container, with prices and amounts received therefor.

(c) A record of quantities and prices of milk sold.

(d) A record of the quantity of each milk product manufactured and quantity of milk and/or cream used in the manufacture of these products. Also the quantity and volume of milk products sold.

(e) A record of wastage or loss of milk or butter fat.

(f) A record of the items of the spread or handling expense and profit or loss, represented by the difference between the price paid and the price received for all milk or cream or milk and cream.

(g) Such other records, and information as the board may deem necessary for the proper enforcement of this act.

(h) Each licensee shall, from time to time, as required by the rule or order of the board, make and file a verified report on forms prescribed by the board of all matters on account of which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of this act.

(i) No licensee or other person, association or corporation shall hereafter contrary to the public interest operate in any municipality under any mutual or secret agreement, arrangement, combination contract or common understanding, with any other licensee or person, firm, association or corporation, whereby the price for fluid milk to be paid to producers in this State is fixed or reduced or the price to be paid by the consumers for such milk is fixed or increased in pursuance of such mutual or secret agreement, arrangement, combination contract or common understanding, and each such contract, arrangement, agreement or understanding is hereby prohibited and declared to be contrary to the public interest and in restraint of trade and commerce, and shall subject the violator or violators to the penalty in this act prescribed:

It is the intent of the Legislature that no provisions of this act shall prevent a co-operative association or co-operative corporation which sells the milk of its members or of persons who are now under contract with such co-operative association or co-operative corporation from making collective sales or marketing milk for the producers being such members or contractees nor to prevent such co-operative association or co-operative corporations from blending the proceeds of all its or their net sales, and so paying its members or contractees.

Article VII

FIXING OF PRICE AND VIOLATIONS

1. The board may ascertain, determine and fix, by such investigations and proof as the emergency permits, the prices to be paid to the producer and to be charged the consumer for milk in the several municipalities or markets of this State, under varying conditions, as will best protect the supply of fresh, wholesome and sanitary milk in this State, and insure a sufficient quantity of pure and wholesome milk to the inhabitants of this State, having special regard to the health and welfare of children and be most in the public interest. The board shall take into consideration the various grades of milk produced, the varying percentages of butter fat, plant volume, seasonal production, and other conditions affecting the cost of production, cost of transportation and marketing, and the amount necessary to yield a reasonable return to the producer and to the milk dealer. It may, in its discretion, hold a public hearing or hearings in this State and invite producers, consumers, local dealers, and public health officials in this State to submit such proofs as they may desire to aid the board in making its determination hereunder.

(b) The board upon its own motion, or upon application may from time to time, upon such notice as it shall by rule and regulation determine, alter or modify any official order theretofore made with respect to the price of milk used for fluid consumption to be paid by milk dealers to producers and/or the price to be paid by consumers.

(c) It is the intent of the Legislature that the instant, whenever that may be, that the handling within the State, by a milk dealer, of milk produced outside of the State, becomes a subject of regulation by the State, in the exercise of its police powers, the restrictions set forth in this act respecting such milk so produced shall apply and the powers conferred by this act on the board shall attach. After any such milk so produced shall have come to rest within the State, any sale, within the State, by a licensed milk dealer or a milk dealer required by

this act to be licensed, of any such milk purchased from the producer at a price lower w[redacted] than that required to be paid for milk produced within the State, purchased under similar conditions, shall be unlawful and deemed a violation of this act, and for continued violations the board may apply to the Court of Chancery for its writ of injunction to restrain such further unlawful acts.

(d) Any person who shall violate any of the provisions of this act and/or the orders, rules and regulations of the board as adopted from time to time, shall be deemed guilty of a violation of the provisions of this act and shall pay a penalty of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00), and such penalty when collected shall be paid to the treasurer of the State of New Jersey and become a part of the general fund of the State of New Jersey. Any milk or cream or milk products which are the subject of the violation of this act or the orders, rules and regulations of the board, may be seized, condemned, destroyed or sold as the board or court may direct; the proceeds from such sale to be paid to the treasurer of the State of New Jersey, to abide the further order of the board or court, and if no such order is made, then to become a part of the general fund of the State of New Jersey.

(e) The board or court may, in its or their discretion, release the milk or cream or milk products as seized, or the funds derived from the sale of such milk or cream or milk products, when the requirements of this act and/or the orders, rules and regulations of the board have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure or prosecution.

(f) Every district court in any city or judicial district in any county and every court of common pleas in any county wherein a district court is not located is hereby empowered upon the filing of a complaint, in writing, duly verified, which said verification when made by the secretary of the milk control board may be made upon information and belief that any person has violated any of the pro-

visions of this act, to issue process at the suit of the milk control board of the State of New Jersey as plaintiff, such process shall be in the nature of a summons and shall be returnable in not less than five nor more than fifteen days; such process shall state what provisions of the law are alleged to have been violated by the defendant or defendants, and on the return of such process or at any time to which the trial shall be adjourned, the said court shall proceed in a summary manner, without a jury, to hear testimony and to determine and give judgment in the matter without the filing of any pleadings, either for the plaintiff for the recovery of such penalty, with costs, or for the defendant, and the said court shall, if judgment be rendered for the plaintiff, cause any such defendant, who may refuse or neglect to forthwith pay the amount of the judgment rendered against him and all costs and charges incident thereto, to be committed to the county jail for any period not exceeding one hundred days; that the officers to serve and execute all process under this act shall be the officers authorized to serve and execute process in said courts.

(g) The sections and parts of sections included in this act are hereby declared to be independent sections and parts of sections; if any such section or part of section shall be held invalid, such holding shall not affect the remainder of this act, nor the context in which such part of section so held invalid may appear, excepting to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. The intention and purpose of this act as hereinbefore defined extends to the regulation of the milk marketing industry and to the control generally of milk to be sold to the inhabitants of the State of New Jersey to the full extent permitted by the constitutions of this State and of the United States as applied to legislation enacted under the emergency conditions described in this act.

Article VIII

SAVING CLAUSE

1. No provisions of this act shall apply or be construed to apply to foreign or interstate commerce, except insofar as the same may be effective pursuant to the United States Constitution and to the laws of the United States enacted pursuant thereto.

Article IX

DURATION

1. This act shall expire on the first day of July, one thousand nine hundred and thirty-five, and all books, papers and records of the New Jersey Milk Control Board hereby created shall be thereafter disposed of as the Secretary of Agriculture may prescribe.

2. This act shall take effect immediately.